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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Mail Stop Issue Fee

Appl. No. : 09/889,604 Confirmation No. 6933  
Applicant : Yukio NAKAMURA et al  
Filed : September 19, 2001  
TC/A.U. : 1653  
Examiner : Abdel A. Mohamed  
Dkt. No. : NPR-082  
Cust. No. : 20374

APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

November 29, 2004

Sir:

The undersigned respectfully requests a reconsideration of the patent term adjustment in the subject application under 37 C.F.R. § 1.705(b).

The records of the USPTO indicate that the patent term adjustment is "0" days. However applicants believe that the patent term adjustment should be --276-- days.

**(1) FEE**

A check in the amount of \$200.00 in payment of the fee set forth in 37 C.F.R. §1.18(e) is attached hereto.

12/01/2004 HBEYENE2 00000091 09889604 200.00 OP  
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**(2) STATEMENT OF FACTS**

(i) The correct patent term adjustment for the subject application is --276-- days based upon the Office's failure to mail a notification under 35 U.S.C. §132 or notice of allowance under 35 U.S.C. §151 not later than fourteen months after the application satisfied all requirements under 35 U.S.C. 371. (37 C.F.R. § 1.702(a)(1)).

(ii) The subject application is an original application filed on or after May 29, 2000, because it is the national stage of an international application which satisfied all requirements under 35 U.S.C. 371 on September 19, 2001. (*See Guidelines Concerning the Implementation of Changes to 35 U.S.C. 102(g) and 103(c) and the Interpretation of the Term "Original Application" in the American Inventors Protection Act of 1999*, 1233 Off. Gaz. Pat. Office 54 (Apr. 11, 2000)). Thus, the Office should have issued an official action not later than November 19, 2002, fourteen months from the date national stage requirements were satisfied. A first Office Action was mailed on September 24, 2003, entitling the patent to issue from the present application to a patent term extension of 309 days. (37 C.F.R. § 1.703(a)(1)).

(iii) The patent that will issue from the present application is not subject to a terminal disclaimer.

(iv) A Final Office Action was mailed on April 7, 2004, with a three-month shortened statutory period for reply that expired on July 7, 2004. A reply to the Final Office Action was filed on August 9, 2004. Thus, the entitled patent term extension should be reduced by 33 days due to applicants' delay. (37 C.F.R. § 1.704(b)).

It appears the Office failed to credit the present application with a patent term adjustment because it improperly considered its international filing date of January 14, 2000, as its filing date. Attached hereto is a copy of a "Determination of Patent Extension" enclosed with the Notice of Allowance and identifying that PTA was calculated for an "application filed after June 7, 1995, but prior to May 29, 2000". However, as noted above, since the present application entered the U.S. national stage on July 19, 2001, it is an original application filed on or after May 29, 2000.

Applicants request that the Office credit the patent to issue from the present application with a patent term adjustment of 276

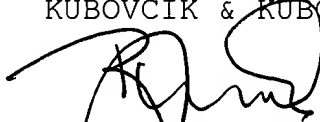
U.S. Patent Appln. S.N. 09/889,604  
APPLICATION FOR PATENT TERM ADJUSTMENT

**PATENT**

days.

In the event any additional fees are required, please charge  
our Deposit Account No. 111833.

Respectfully submitted,  
KUBOVCIK & KUBOVCIK



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Attachments: Check  
"Determination of Patent Extension"



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,604	09/19/2001	Yukio Nakamura	NPR-082	6933

20374 7590 09/10/2004

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EXAMINER

MOHAMED, ABDEL A

ART UNIT PAPER NUMBER

1653

DATE MAILED: 09/10/2004

## Determination of Patent Term Extension under 35 U.S.C. 154 (b) (application filed after June 7, 1995 but prior to May 29, 2000)

The Patent Term Extension is 0 day(s). Any patent to issue from the above-identified application will include an indication of the 0 day extension on the front page.

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Extension is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (703) 305-1383. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.